

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 177209

14

ORIGIN EB-07

INFO OCT-01 EUR-12 IO-13 ISO-00 FEA-01 AGR-05 CEA-01

CIAE-00 COME-00 DODE-00 FRB-03 H-02 INR-07 INT-05

L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15

STR-04 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01

/106 R

DRAFTED BY EB/OT/TA:DMGRIMMER:STMCP

APPROVED BY EB/OT/TA:DJDUNFORD

L/EB:CROH

EUR/CE:SKLINGAMAN

TREASURY:EBARBER

COMMERCE:SBILINSKI

STR:ELAPP/HLAWRENCE

----- 047354

R 162341Z JUL 76

FM SECSTATE WASHDC

TO AMEMBASSY VIENNA

INFO USMISSION GENEVA

LIMITED OFFICIAL USE STATE 177209

E.O. 11652: N/A

TAGS: ETRD, GATT

SUBJECT: INCREASE IN AUSTRIAN MOTOR VEHICLE TAXES

REFS: (A) VIENNA 4381 (B) VIENNA A-174

(C) STATE 65257

1. WHILE THE STARIBACHER LETTER SETOUT IN REFAIR DOES NOT
GO AS FAR AS TO STATE THAT THE U.S. DOES NOT HAVE ANY
RIGHTS UNDER GATT ARTICLE XXVIII AS A RESULT OF THE
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 177209

PROPOSED INCREASE IN AUSTRIAN VEHICLE TAXES, WE ARE

SURPRISED AT STARIBACHER'S SUGGESTION THAT IT IS UNCLEAR WHETHER THE U.S. HAS A RIGHT TO COMPENSATION UNDER ARTICLE XXVIII. STARIBACHER SEEMS TO BE SUGGESTING THAT THE ADDITIONAL VEHICLE TAX, MERELY BECAUSE IT HAS A NEW NAME (FEDERAL MOTOR VEHICLE TAX), IS NOT RELATED TO THE VEHICLE TAX IN EFFECT WHEN THE U.S. AND AUSTRIA NEGOTIATED THIS CONCESSION, AND THAT IN ANY EVENT THE NEW TAX DOES NOT RUN COUNTER TO AUSTRIA'S OBLIGATIONS UNDER THE 1967 EXCHANGE OF NOTES (TIAS 6426) AS PART OF THE KENNEDY ROUND TO MAINTAIN THE RELATIONSHIP AMONG THE VEHICLE TAX RATES OF DIFFERENT CLASSES OF CYLINDER CAPACITY.

2. WE UNDERSTAND THE INTENT OF BOTH PARTIES WHO NEGOTIATED THIS AUSTRIAN COMMITMENT TO BE TO FREEZE THE RELATIONSHIP OF AUSTRIAN VEHICLE TAXES WITHOUT REGARD TO HOW THE TAXES ORIGINATED. THIS VIEW IS SUPPORTED BY THE LANGUAGE OF THE NOTES EXCHANGED WHICH STATE THAT AUSTRIA SHALL NOT "CHANGE THE RELATIONSHIP AMONG THE TAX RATES SETOUT ABOVE". IF THE GOA HAD WISHED TO LIMIT ITS COMMITMENT TO THE INDIVIDUAL VEHICLE TAX IN EFFECT AT THE TIME INSTEAD OF LIMITING ITS FREEDOM OF ADJUSTING THE GENERAL LEVEL OF VEHICLE TAXES, IT WOULD LOGICALLY HAVE INSISTED IN ITS NOTE ON A SPECIFIC REFERENCE TO THE THEN EXISTING MOTOR VEHICLE TAX. THIS WAS NOT DONE. THE ONLY REFERENCE TO THE VEHICLE TAX THEN EXISTING WAS IN TERMS OF DEFINING THE RELATIONSHIP OF THE TAX RATES. FURTHER, AN INTERPRETATION LIMITING THE AUSTRIAN COMMITMENT TO AN INDIVIDUAL VEHICLE TAX RATHER THAN TO THE RELATIVE BURDEN OF ALL VEHICLE TAXES WOULD HAVE BEEN INCONSISTENT WITH THE PARTIES MUTUAL INTENTION TO NEGOTIATE RECIPROCAL BINDING CONCESSIONS. THE AUSTRIAN CONCESSION WOULD HAVE BEEN ENTIRELY ILLUSORY IF IT COULD HAVE BEEN COMPLETELY NEGATED BY THE IMMEDIATE ADOPTION OF A NEW VEHICLE TAX AFTER THE NEGOTIATIONS WERE CONCLUDED. THE PRIMARY U.S. INTEREST WAS AT THE TIME AND CONTINUES TO BE THE RELATIVE BURDEN (I.E. THE RELATIONSHIP) OF VEHICLE TAXES. NEITHER THE

NAMES OF THE TAXES INVOLVED NOR THE BENEFICIARIES OF THE REVENUES DERIVED (THESE ARE APPARENTLY THE ONLY FACTORS LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 177209

WHICH DISTINGUISH THE OLD TAX FROM THE NEW FEDERAL MOTOR VEHICLE TAX) ARE REALLY RELEVANT.

3. FINALLY, WE DO NOT FIND THE LANGUAGE IN THE NOTES THAT AUSTRIA "DOES NOT CONSIDER THIS MEASURE AS BINDING ITS AUTONOMY IN THE FIELD OF INTERNAL TAXATION" INCONSISTENT WITH OUR POSITION. FIRST, IT WAS UNDERSTOOD BY BOTH SIDES AT THE TIME OF THE NEGOTIATION THAT AUSTRIA COULD MODIFY

THE VEHICLE TAXES, PROVIDED THE RELATIONSHIP AMONG THEM DID NOT CHANGE. SECOND, IMMEDIATELY FOLLOWING THE ABOVE QUOTED PHRASE, THE TEXT STATES: "IF HOWEVER, SUCH A CLAIM IS DEEMED TO BE NECESSARY AND IS IN FACT MADE, THE AUSTRIAN GOVERNMENT SHALL ENTER INTO NEGOTIATIONS IN ACCORDANCE WITH THE PRINCIPLES OF GATT ARTICLE XXVIII." CLEARLY THE TEXT UNDERSCORES THE OBLIGATION THAT WOULD BE INVOLVED SHOULD AUSTRIA WISH TO MAKE CHANGES IN ITS INTERNAL TAXATION WHICH WOULD ALTER THE RELATIONSHIP OF THE VEHICLE TAXES. AUSTRIA IS FREE TO TAKE THIS ACTION

PROVIDED IT NEGOTIATES WITH THE US ON ADEQUATE COMPENSATION PURSUANT TO ARTICLE XXVIII OF THE GATT.

4. DRAWING ON THE ABOVE EMBASSY IS REQUESTED TO BRING THIS MATTER TO THE ATTENTION OF GOA OFFICIALS AT AN EARLY DATE AND TO SEEK ASSURANCE FROM GOA THAT IT IS PREPARED TO NEGOTIATE WITH THE U.S. ON COMPENSATORY CONCESSIONS UNDER GATT ARTICLE XXVIII AS SETOUT IN THE EXCHANGE OF NOTES. KISSINGER

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TAXES, AUTOMOBILES, RELATIONS WITH REGIONAL ORGS
Control Number: n/a
Copy: SINGLE
Draft Date: 16 JUL 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: KelleyW0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE177209
Document Source: CORE
Document Unique ID: 00
Drafter: DMGRIMMER:STMCP
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760276-0319
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760748/aaaabqho.tel
Line Count: 136
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 VIENNA 4381, 76 VIENNA A-174
Review Action: RELEASED, APPROVED
Review Authority: KelleyW0
Review Comment: n/a
Review Content Flags:
Review Date: 24 MAR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <24 MAR 2004 by greeneet>; APPROVED <05 AUG 2004 by KelleyW0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: INCREASE IN AUSTRIAN MOTOR VEHICLE TAXES
TAGS: ETRD, US, AU, GATT
To: VIENNA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006